

Notice of Allowability

Application No.

09/871,381

Examiner

David Lazaro

Applicant(s)

CHMAYTELLI ET AL.

Art Unit

2155

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to RCE filed 10/11/2006.
2. ☒ The allowed claim(s) is/are 1-4,6-10,20-27,38 and 42-45.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

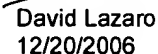
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


BHARAT BAROT
PRIMARY EXAMINER


David Lazaro
12/20/2006

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Fariba Yadegar-Bandari (53,805) on 12/21/2006.

The application has been amended as follows:

In claim 1, line 9, after "server" please insert --using the size of each of the one or more data files to measure--.

In claim 1, line 9, please delete "measuring".

In Claim 20, line 18, after rates, please insert --for each of the one or more data files using the size of each of the one or more data files--.

In claim 23, line 3, please replace the first instance of "a" with --the--.

In Claim 24, line 10, after "operation", please insert --for each of the one or more data files using the size of each of the one or more data files--.

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In Claim 27, line 9, after "operation", please insert --for each of the one or more data files using the size of each of the one or more data files--.

In Claim 38, line 1, please delete "method of".

In Claim 38, line 4, please replace "it" with --the size field--.

In Claim 38, line 8, after "server", please insert --and for the wireless device to notify the server of the receipt of each of the one or more data files--.

In Claim 38, lines 10-11, please delete "required to receive each of the one or more data files".

In Claim 44, line 9, after "server", please insert --and for the wireless device to notify the server of the receipt of each of the one or more data files--.

In Claim 44, lines 11-12, please delete "required to receive each of the one or more data files".

In Claim 45, line 8, after "files", please insert --and for the wireless device to notify the server of the receipt of each of the one or more data files--.

In Claim 45, lines 10-11, please delete "required to receive each of the one or more data files".

In the specification on page 17, paragraph [0079], in line 9, before "an optical", please insert --or--.

In the specification on page 17, paragraph [0079], in lines 10-11, please delete “paper “punch” cards, or other suitable signal-bearing media, including transmission media such as digital and analog”.

Examiner Comments

2. This examiner's amendment overcomes the 112, first paragraph rejection of claims 38 and 44.
3. The examiner's amendment to the specification resolves potential 35 U.S.C 101 issues with claim 44.

Reasons for Allowance

4. The following is an examiner's statement of reasons for allowance: The primary reasons for allowance is the inclusion of the following limitations in each of the independent claims directed towards methods and corresponding systems for estimating a length of time required to download one or more application programs of data files onto a wireless device over a wireless network:

“the wireless device receiving one or more data files from a server, each data file of the one or more data files containing information representing a size of the data file, said data files including information about the one or more application programs available for downloading onto the wireless device and a size of the one or more application programs available for downloading onto the wireless device;

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during the receiving, the server using the size of each of the one or more data files to measure one or more data transfer rates from the receiving operation;" (as from claim 1, similar limitations in each independent claim).

The one or more data transfer rates are further utilized in estimating a length of time required to download the applications or files. This claimed subject matter is not found in the prior art, nor is it obvious in view of the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Lazaro whose telephone number is 571-272-3986. The examiner can normally be reached on 8:30-5:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on 571-272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



David Lazaro
December 20, 2006


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PRIMARY EXAMINER